

BLANK ROME LLP

Bryan J. Hall
The Chrysler Building
405 Lexington Avenue
New York, New York 10174
Telephone: (212) 885-5000
Facsimile: (212) 885-5001
Email: BHall@Blankrome.com

John E. Lucian
One Logan Square
130 N. 18th Street
Philadelphia, Pennsylvania 19103
Telephone: (215) 569-5442
Facsimile: (215) 832-5442
Email: Lucian@Blankrome.com

*Attorneys for Liberty Property
Limited Partnership*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re:	:	Chapter 11
	:	
SEARS HOLDINGS CORPORATION, <i>et al.</i>,	:	Case No. 18-23538 (RDD)
	:	
Debtors.¹	:	(Jointly Administered)
	:	
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CURE OBJECTION OF LIBERTY PROPERTY LIMITED PARTNERSHIP

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); Sears, Roebuck de Puerto Rico, Inc. (3626); SYW Relay LLC (1870); Wally Labs LLC (None); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Sears Brands Business Unit Corporation (4658); Sears Holdings Publishing Company, LLC. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); and Sears Brands Management Corporation (5365). The location of the Debtors' corporate headquarters is 3333 Beverly Road, Hoffman Estates, Illinois 60179.

Liberty Property Limited Partnership (“Liberty”) objects to the Debtors’ proposed cure amount set forth in the *Supplemental Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Global Sale Transaction* [D.I. 1774] (the “Cure Notice”).

1. The Cure Notice identifies a distribution center that the Debtors lease from Liberty at 1475 Nitterhouse Drive, Chambersburg, Pennsylvania 17201 (the “Liberty Lease”). The Debtors designated the property as store number 8781 in the Cure Notice.

2. Bankruptcy Code section 365(b)(1) provides that in the event of a default under an unexpired lease, a debtor may not assume the lease unless, at the time of the assumption of such lease, the debtor “(A) cures, or provides adequate assurance that the debtor will promptly cure, such default; (B) compensates, or provides adequate assurance that the debtor will promptly compensate, the non-debtor party to the contract for any actual pecuniary loss to such party resulting from such default; and (C) provides adequate assurance of future performance under such contract.” 11 U.S.C. § 365(b)(1). A debtor must cure both monetary and non-monetary defaults. *See id.*

3. The Cure Notice identifies a \$326,590.65 cure amount for the Liberty Lease. This amount is incorrect. The total amount necessary to cure the default under the Liberty Lease is \$417,372.64. In addition to this amount, there are non-economic obligations of the Debtors under the Liberty Lease. Among other obligations, the Debtors are responsible for payment of (i) monthly operating expenses and (ii) any shortfall after the annual reconciliation of actual expenses to estimated amounts paid each month. The Debtors are also responsible for payment of certain property taxes under the Liberty Lease, including the Chambersburg school tax. At present, Liberty estimates the Debtors owe a total of \$417,372.64, which amount is comprised of: (i) \$380,347.90 for the 2018 Chambersburg school tax, and (ii) \$37,024.74 for 2018 property

insurance operating expenses. The Debtors will owe additional monthly rent and operating expenses on the first day of each future month.

4. Further, the Debtors are obligated to Liberty for its attorneys' fees incurred in connection with enforcing its contractual rights under the Liberty Lease, and the Debtors remain liable for any amounts coming due prior to any assumption and assignment of the Liberty Lease, as well as all non-economic obligations thereunder.

5. Liberty reserves all of its rights to object to the assumption and assignment of the Liberty Lease on all grounds available under applicable bankruptcy and non-bankruptcy law, and to supplement this objection upon discovery of any additional monetary or non-monetary obligations that may arise prior to assumption and assignment of the Liberty Lease. Nothing herein shall be construed as a waiver of any rights.

Dated: New York, New York
January 28, 2019

BLANK ROME LLP

/s/ Bryan J. Hall
Bryan J. Hall (NY Bar No. 4987624)
The Chrysler Building
405 Lexington Avenue
New York, New York 10174
Telephone: (212) 885-5000
Facsimile: (212) 885-5001
Email: BHall@Blankrome.com

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Philadelphia, Pennsylvania 19103
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Facsimile: (215) 832-5442
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